

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

DENISE PEREZ,
v.
PATENAUDE AND FELIX CPA, et al.,
Respondents.

Case No. 2:17-cv-00996-APG-VCF

ORDER

Denise Perez has filed what she has styled as a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (ECF No. 1). However, she appears to seek to challenge a default judgment against her and in favor of one or more creditors and to challenge the denial of her motion for stay of execution.

The federal habeas statute gives the United States district courts jurisdiction to entertain petitions for habeas relief only from persons who are “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3) (emphasis added); *see also* 28 U.S.C. § 2254(a). The U.S. Supreme Court, in *Maleng v. Cook*, 490 U.S. 488 (1989), noted that the Court “interpreted the statutory language as requiring that the habeas petitioner be ‘in custody’ under the conviction or sentence under attack at the time his petition is filed.” 490 U.S. at 490-91 (emphasis added) (citation omitted). Perez is not in custody pursuant to a state-court judgment, and therefore, this petition is dismissed for failure to state a claim for which federal habeas relief may be granted.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS THEREFORE ORDERED the petition is **DISMISSED** with prejudice for failure to state a claim for which federal habeas relief may be granted.

IT IS FURTHER ORDERED that, to the extent that it is necessary in this procedural context, a certificate of appealability is **DENIED**.

IT IS FURTHER ORDERED that Clerk shall enter judgment and close this case.

DATED: 16 October 2017.



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE